

Ro) ships, covered by another rule—carrying more than 12 passengers on international voyages. (These requirements would not apply to any passenger ships on domestic voyages.) Regulation V/3 of the International Convention for Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended in 1997, mandated that its Parties ensure this training and certification. This rule would reduce human error, improve the ability of crewmembers to assist passengers during emergencies, and promote safety.

**DATES:** Comments and related material must reach the Facility of the Docket Management System, or DMS (see **ADDRESSES**), on or before September 13, 2000. Comments sent to the Office of Management and Budget (OMB) (see **ADDRESSES**), on collection of information must reach OMB on or before August 14, 2000.

**ADDRESSES:** You may submit your comments and related material by any one, but only one, of the following methods:

(1) By mail to the DMS [USCG 1999–5610], U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) In person to the DMS at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the DMS at 202–493–2251.

(4) Electronically through the Web Site for the DMS at <http://dms.dot.gov>.

If you submit comments on collection of information to the docket, you must also submit them to the Office of Information and Regulatory Affairs, OMB, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The DMS maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

You may inspect the material proposed for incorporation by reference at room 1210, U.S. Coast Guard

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Parts 10, 12, and 15

[USCG 1999–5610] – /

RIN 2115–AF83

#### Training and Certification for Mariners Serving on Certain Ships Carrying More Than 12 Passengers on International Voyages

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish requirements of training and certification for mariners serving on ships—other than roll-on/roll-off (Ro-

Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, between 9 a.m. and 2:30 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-0229. Copies of the material are available as indicated in the section of this preamble entitled Incorporation by Reference.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed rule, call Mark Gould, Project Manager, Commandant (G-MSO-1), Coast Guard, telephone 202-267-0229. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief of Dockets, Department of Transportation, telephone 202-366-9329.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [USCG 1999-5610], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, in person, by fax, or by electronic means to the DMS at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or in person, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the DMS, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

We do not plan to hold a public meeting. But you may ask for one by submitting a request to the DMS at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would be, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

The International Maritime Organization (IMO), in Regulation V/3 of STCW, as amended, set qualifications for masters, other officers, ratings and other personnel on passenger ships other than Ro-Ro passenger ships. The following is a chronology of important events regarding STCW:

- The basic treaty was adopted in 1978 by a conference at the headquarters of IMO.
- It entered into force in 1984.
- The United States became a Party to it in 1991.
- The basic treaty was amended in 1995 and 1997.
- Its Regulation V/3 was adopted in 1997 and entered into force on January 1, 1999.

STCW encompasses three interdependent components: the Articles, the Annex (replaced with Regulations by the 1995 Amendments), and the Code (added by the 1995 Amendments). The Articles, which are the heart of STCW, state the legal arrangements that prevail among the Parties. The Annex outlined—and the Regulations outline—the technical requirements that a Party must meet to satisfy the obligations imposed by the Articles. The Code elaborates the requirements.

When adopted in 1978, STCW encompassed only two components: the Articles and the Annex. The 1995 Amendments, however, not only replaced the Annex with Regulations but added the Code (in full, the “Seafarers” Training and Certification Code”). Each chapter of the Annex (as replaced with Regulations by the Amendments) contains a number of Regulations. These refer to the Code for more detail: to understand what a particular Regulation requires, you must read the relevant section of the Code.

The Code contains two parts; each part in turn contains standards. Part A contains mandatory standards. Each section in part A amplifies the Regulation with the same number, and the standards bind as if included in the Regulation itself. Part B of the Code contains “Recommended Guidance”. The guidance in part B clarifies a Regulation or promotes a uniform interpretation of one.

STCW as amended has been ratified by 133 Parties (at the time of this publication), who represent almost 98 percent of the world’s merchant-shipping tonnage. Over 90 percent of merchant ships plying U.S. waters are foreign-flag. About 350 U.S.-flag merchant ships that routinely visit foreign ports, as well as thousands of ships that operate on ocean or near-coastal voyages, are subject to the STCW, as amended.

The purpose of this proposed rule is to incorporate, into domestic rules, the training and certification that the STCW, as amended, mandates internationally. This rule would amend requirements for the training and certification of certain crewmembers on

ships, other than Ro-Ro’s, carrying more than 12 passengers on international voyages. It would have no impact on the applicability or content of the final rule in 46 CFR part 10, subpart J, part 12, subpart 12.30, and part 15, subpart J [62 FR 34505 (26 June 1997)], which dealt with certain crewmembers on Ro-Ro ships carrying more than 12 passengers on such voyages. It would merely establish appropriate training and documentation for certain crewmembers on all other ships carrying more than 12 passengers on such voyages.

STCW Regulation V/3 applies to passenger ships (“vessels” under most domestic law) on international voyages. It also expressly obligates Administrations to determine the applicability of its requirements to personnel serving on ships engaged on domestic voyages. The Coast Guard has determined that neither the operational requirements nor the casualty records suggest any need to impose those requirements either on small passenger ships on domestic voyages or on uninspected passenger ships on such voyages. Current domestic law and industry practices are adequate for these ships and voyages. Therefore, this Notice proposes no new requirements for either of these classes of ships when operating on domestic voyages, nor on personnel serving on these ships, nor on their owners or operators.

The Coast Guard seeks comments on whether these proposed requirements should apply to any U.S.-flag passenger ships inspected under 46 CFR Subchapter H and operating on domestic voyages. To comment on this issue or any other in this proposed rule, you should use one of the means noted under **ADDRESSES**.

In 1993, IMO started a comprehensive revision of the basic treaty to establish the highest practicable standards of competence for mariners and to reduce human error as a main cause of marine casualties. In 1995, its conference on the basic STCW treaty adopted amendments found in Regulation V/2. These established new, minimal standards for the training and qualification of certain crewmembers on Ro-Ro ships carrying more than 12 passengers on international voyages. These amendments entered into force on February 1, 1997. The same conference invited the IMO to—

(a) Develop detailed provisions on the training of certain crewmembers, on Ro-Ro passenger ships carrying more than 12 passengers on international voyages, in crisis management and human behavior; and

(b) Consider developing provisions similar to those in Regulation V/2—but,

rather than for certain crewmembers of Ro-Ro passenger ships, these would be for the training of certain crewmembers serving on ships, other than Ro-Ro's, carrying more than 12 passengers on international voyages.

In 1996, the Sub-committee of IMO on Standards of Training and Watchkeeping (STW) accepted this invitation. It proposed two provisions:

(a) Mandatory training in crisis management and human behavior for certain crewmembers on Ro-Ro passenger ships carrying more than 12 passengers on international voyages.

(b) Establishing new, minimal standards for the training and qualification of certain crewmembers on ships, other than Ro-Ro's, carrying more than 12 passengers on such voyages, with the Ro-Ro standards from Regulation V/2 as a guide.

On June 4, 1997, the IMO Maritime Safety Committee (MSC) adopted these two provisions as Regulation V/2-8 and Regulation V/3. Both entered into force on January 1, 1999.

To align domestic rules and practice with the new international standards, we published the final rule in 46 CFR part 10, subpart J, part 12, subpart 12.30, and part 15, subpart J [62 FR 94505 (26 June 1997)]. In 1998, to help mariners implement the new rules we published, in Navigation and Vessel Inspection Circular (NVIC) 6-98, guidelines on training and documentation for crewmembers of Ro-Ro ships carrying more than 12 passengers on international voyages.

#### Discussion of Proposed Rule

##### 46 CFR Part 10—Licensing of Maritime Personnel

1. Section 10.102 would incorporate by reference STCW (including its Regulation V/3, adopted in 1997, and the corresponding Code) into the rules in Part 10 and adjust the list of rules that refer to STCW, as amended.

2. Section 10.103 would amend the definition of STCW to add the words "and 1997".

3. New §§ 10.1101, 10.1103, and 10.1105 would require certain licensed officers to complete training required by STCW Regulation V/3 (and elaborated by Section A-V/3 of the Code) when serving on ships other than Ro-Ro's carrying more than 12 passengers on international voyages.

##### 46 CFR Part 12—Certification of Seamen

4. Section 12.01-3 would incorporate by reference STCW (including its Regulation V/3, adopted in 1997, and the corresponding Code) into the rules

in Part 12 and adjust the list of rules that refer to STCW, as amended.

5. Section § 12.01-6 would amend the definition of STCW to add the words "and 1997".

6. New subpart 12.35 would require certain mariners to complete training required by Regulation V/3 (and elaborated by section A-V/3 of the Code) when serving on ships other than Ro-Ro's carrying more than 12 passengers on international voyages.

##### 46 CFR Part 15—Manning

7. Paragraphs (e), (f), and (g) of § 15.1103 would become paragraphs (f), (g), and (h), respectively; paragraph (f) would undergo no change; and paragraphs (g) and (h) would undergo a slight editorial change.

8. New paragraph 15.1103(e) would govern ships other than Ro-Ro's carrying more than 12 passengers on international voyages.

#### Incorporation by Reference

Material that would be incorporated by reference is listed in 46 CFR 10.102 and 12.01-3. You may inspect all material at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC, 20408, and at the U.S. Coast Guard, Office of Operating and Environmental Standards (G-MSO), 2100 Second Street SW., Washington, DC 20593-0001. You may obtain copies from the IMO, 4 Albert Embankment, London, SE1 7SR, England. Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. OMB has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the DOT [44 FR 11040 (February 26, 1979)].

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows:

The Coast Guard proposes this rule to implement Regulation V/3 of STCW, as amended in 1997. The rule would specify the necessary training and certification for mariners serving on ships—other than roll-on/roll-off (Ro-Ro) ships—carrying more than 12 passengers on international voyages (Ro-Ro ships are covered by the Interim Rule on STCW [CGD 95-062, June 26, 1997]). The IMO mandated that its Parties

ensure this training and certification. These requirements should reduce human error, improve the ability of crewmembers to assist passengers during emergencies, and promote safety.

#### Costs

The specialized training course(s) that mariners would have to complete are: Crisis Management and Human Behavior, Crowd Management, Special Safety Training (including communication), Training in Passengers' Safety, and Special Familiarization Training (including the operational limitations of the ship). The average cost for the course(s), held for 5 days at various training institutions, is \$1,215 per person. We estimate that the cost to develop an in-house training course would not exceed the probable cost of a course at a training institution. Either operators of vessels or companies may develop a more cost-effective way to provide in-house training (for less than the cost we estimated). We calculate first-year training cost for 1,144 mariners to be \$1,389,960. Union contracts may require some companies to pay for training new hires. We estimate the annual training cost paid by the companies for the new hires to be \$20,655 beginning in 2001 and running through 2010. We estimate the annual training cost paid by the new hires themselves after the implementation year to be \$117,855. A mariner would have to complete refresher training for Crisis Management and Human Behavior, Crowd Management, and Special Safety every five years. It is available as a two-day course at an estimated cost of \$330. We estimate the first-year travel cost incurred by all mariners that receive training away from the vessel at \$406,850. We estimate the annual travel cost for the new hires to be \$45,030. We estimate that about one-half of the existing staff of mariners receiving training away from their vessel would continue to receive their wages while attending courses, as a result of their union membership. We calculate the one-time wage cost to be \$370,310. We estimate the annual recurring wage cost associated with the refresher training to be \$183,034. We estimate the one-time cost incurred by the remaining number (one-half) of existing staff of mariners that don't receive wages while attending initial training courses to be \$370,310; this is the "opportunity cost" of the mariners' spare time.

In summary, the 10-year present value (in 2000 dollars) of the total cost of this rulemaking is \$4,345,794. To learn further details concerning the costs associated with this rule, as well as the

potential benefits, see the analysis provided in the docket for this rule on the Internet at <http://dms.dot.gov>.

### Benefits

Implementing this proposed rule would ensure that U.S. ships carrying more than 12 passengers on international routes are in compliance with the Amendments to the International Convention on STCW, 1978. IMO adopted the Amendments to STCW in response to a series of casualties involving passenger ships, such as the *Scandinavian Star*, *Estonia*, and *Achille Lauro*. During these casualties, the crews did not perform emergency duties in an efficient, coordinated, and effective manner. We reviewed the casualty records for the U.S. ships this rule would affect and found no cases that would have directly benefited from this rule. However, the following narratives briefly describe two of those foreign-flag ships' casualties, to show the types of risks this rule would address.

On March 15, 1988, a fire occurred in the engine room of the *Scandinavian Star*. Two crewmembers were injured, and two passengers were transported to a medical facility by helicopter, treated, and released. Costs of damage and repair came to about \$3.5M. According to an excerpt from the marine-accident report of the National Transportation Safety Board, one of the passengers stated that one of the crewmembers did not know how to pull the fire alarm; the passengers waited from 45 minutes to 2 hours to receive lifejackets, and then were given childsize lifejackets.

On November 30, 1994, a fire onboard the *Achille Lauro* proved more costly; it left two persons dead, and 8 injured. Afterward, many of the survivors complained of confusion and a lack of leadership by the crew when the fire broke out. They accused some crewmembers of abandoning elderly passengers to save themselves.

While the requirement for all crewmembers to have familiarization or basic safety training or instruction figured in the 1995 amendments to STCW, the amendments did not adequately address the need for special training of personnel on passenger ships. Further work was necessary at the IMO to reach agreement on the mandatory minimum training and qualifications for these personnel.

Implementing this proposed rule should reduce the risk that passengers will be injured in a fire or other emergency on a passenger ship, because crewmembers would be trained to coordinate a rapid response and to keep passengers from panicking. Recent

accidents involving passenger ships—such as the fire on the *Universe Explorer* (July '96) near Juneau, Alaska; the fire on the *Vistafjord* (April '97) near Grand Bahama Island; the grounding of the *Monarch of the Seas* (December '98) off St. Maarten; and the grounding of the *Wilderness Adventurer* (June '99) in Alaskan waters—highlight the continued need for this rule.

### Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This proposed rule would affect certain crewmembers on ships carrying more than 12 passengers on international voyages. These individual mariners are not considered small entities.

This rule would not require companies to bear the cost of the training. However, we estimate that the companies would choose to bear the majority of the costs.

During the analysis for the interim rule implementing 1995 Amendments to STCW, we considered the impact on businesses, organizations, and jurisdictions defined as small entities and potentially affected by STCW. Small entities here include owners and operators of some STCW-affected ships, training institutions, and businesses offering marine training courses or supplying assessors or examiners. As that interim rule does not, this rule would not require any single business to offer or assess all courses required under STCW. Training institutions or businesses that offered training-course assessors would not have to provide new services. This rule would allow for small entities to remain in and actively compete in maritime training with options to teach and assess as many courses or functions as they choose.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant impact on a substantial number of small entities.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on

them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Mr. Mark Gould, project manager, at (202) 267–6890. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal rules, to the Small Business and Agriculture Regulatory Enforcement Ombudsman and to the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### Collection of Information

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520]. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of the respondents, and an estimate of the total annual burden follow. The estimate covers the time for the following requirements of the proposed rule: documentation of curriculum for training courses that need to receive Coast Guard approval or acceptance; documentary evidence showing that mariners meet the appropriate training standards; and maintenance of mariners' records by ship owners or operators. Each estimated burden in this analysis pertains only to the requirements proposed by this rule; we do not incorporate the estimates or burdens noted in previous rulemakings to support the existing collection under control number “OMB 2115–0624.”

*Title:* Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1997 Amendments (OMB 2115–0624)

### Summary of the Collection of Information

STCW Regulation V/3 requires seafarers serving on ships (other than Ro-Ro's) carrying more than 12 passengers on international voyages to complete specialized training as adopted by IMO in 1997. These changes revise the previously approved OMB Collection 2115–0624. This collection of information would be affected by changes in the following sections: 46 CFR 10.1105, 12.35–5, and 15.1103.

Table 1 notes the particular subjects and affected populations for these sections of the proposed rule and the related Navigation and Vessel Inspection Circular (NVIC).

TABLE 1.—STCW AMENDMENTS, 1997: 46 CFR OR NVIC CITED, AND SUBJECT AND AFFECTED POPULATION

46 CFR or NVIC	Subject and affected population
NVIC 4-99 (4)(c).	Documentation of training courses —Providers of Training and Assessment
10.1105 and 12.35-5.	Documentary evidence showing that the personnel serving on passenger ships (other than Ro-Ro's) on international voyages meet appropriate training —All personnel serving on passenger ships (other than Ro-Ro's)
15.1103 .....	Maintenance of records, by owner or operator, for the personnel serving on passenger ships (other than Ro-Ro's) on international voyages —All owners and operators of passenger ships (other than Ro-Ro's) operating on international voyages

#### Need for Information

This proposed rule contains burdens for the mariners serving on passenger ships (other than Ro-Ro's), the ships' owners and operators, and the maritime institutions that offer the new training courses.

1. *Documentation of curriculum for training courses.* All training would be part of a program certified as approved or accepted by the Coast Guard.

2. *Documentary evidence showing that mariners meet the appropriate training standards.* STCW Regulation V3.9 requires that: Each mariner who completes the required training receives a certificate. Every five years, each mariner would document completion of a refresher course in his or her record, and it would show that the mariner has received such training, or has otherwise maintained competence in the required areas of knowledge and proficiency. He or she needs to give the copy of the training certificate to the Coast Guard for filing it in an accessible place, so the Coast Guard can verify the mariner's records for the duration of his or her employment. The burden imposed by documenting the refresher training does not figure in this estimate, because

mariners would account for it starting in the year 2005, when these courses would need to start convening.

3. *Maintenance of mariners' records by vessel owners or operators.* A ship company would have to maintain a record for each mariner in its service for the duration of the mariner's employment.

#### Proposed Use of Information

This information is necessary to ensure compliance with the requirements of Regulation V/3 of STCW as amended in 1997. It is also necessary to maintain a certain level of quality in activities associated with training and assessment of mariners serving on ships, other than Ro-Ro's, carrying more than 12 passengers on international voyages.

#### Description of Respondents

1. Training institutions that offer the courses required for mariners serving on ships, other than Ro-Ro's, carrying more than 12 passengers on international voyages.

2. Mariners who complete the required training and receive certificates.

3. Owners and operators of ships who have to add the new training certificates to the mariners' records.

#### Number of Respondents

1. 77 training institutions.
2. 1,144 mariners, who would each obtain a training certificate in the first year. In every subsequent year, from 2001 to 2010, about 10 percent (114 mariners) would be replaced with new hires, who would need training.
3. 89 owners and operators of vessels.

#### Frequency of Response

1. Once during the first year, the Coast Guard would approve or accept an initial submission of the updated paperwork of training.

2. Once during the first year, each mariner would file the training certificate in an easily accessible location. Annually, from 2001 to 2010, the new hires, who would have received training, would file the certificate in such a location, so the Coast Guard could verify the mariner's records for the duration of the his or her employment. Also, at first, the owners and operators of vessels would have to initially add the new training certificates of the existing staff of mariners that received training to the mariners' previous records. Annually, from 2001 to 2010, the owners and operators would have to add the certificates of the new hires to these mariners' previous records.

#### Burden of Response

a. Initial burden (in hours):

1. *Documentation of training courses.* We estimate that each training institution would take one hour to provide the Coast Guard with updated paperwork of training approved or accepted by the Coast Guard and offered to the mariners. Consequently, the associated burden for all of the affected training institutions is: 1 hour (management time)  $\times$  77 = 77 hours.

2. *Documentary evidence that shows that mariners meet the appropriate training standards.* We estimate that it takes 5 minutes for the mariner to file this certificate in an easily accessible location. The initial burden placed on mariners is: 0.083 hours  $\times$  1,144 = 95 hours.

3. *Maintenance of mariners' records by owners or operators of vessels.* We estimate that it takes 10 minutes to file each mariner's record in a place accessible to the Coast Guard.

The initial burden placed on the owners and operators is:  
0.166 hours  $\times$  1,144 mariners = 190 hours

The total initial burden therefore is:  
77 hours + 95 hours + 190 hours = 362 hours

b. Annual burden (in hours):

We assume that every year, from 2001 to 2010, about 10 percent (114 mariners) would be replaced with new hires, who would need training. The burden placed on—

- The mariner = 0.083 hours  $\times$  114 mariners = 10 hours

- The owners and operators = 0.166 hours  $\times$  114 mariners = 19 hours

The annual burden beginning in 2001 is:  
10 hours + 19 hours = 29 hours

#### Estimate of Total Annual Burden

a. The Initial Burden (in dollars)

1. *Documentation of training courses.* The Coast Guard estimates the wage for a qualified professional at \$30 per hour. The initial burden in dollars to the industry is: 77 hours (management time)  $\times$  \$30 = \$2,310.

2. *Documentary evidence that shows that mariners meet the appropriate training standards.* The Coast Guard estimates the wage of the mariners receiving training at \$130 (determined as an average based on daily wage rates for licensed and unlicensed mariners in 1999, \$200 and \$117, respectively). The initial burden to industry is: 95 hours  $\times$  \$130 = \$12,350.

3. *Maintenance of mariners' records by owners and operators.* The Coast Guard estimates the wage for a qualified assessor at \$75 per hour. The initial burden to industry is:

190 hours × \$75 = \$14,250

Total initial burden in dollars is:  
\$2,310 + \$12,350 + \$14,250 = \$28,910

b. The annual burden (in dollars):  
The annual burden on the mariners, beginning in 2001 and continuing through 2010, is: 10 hours × \$130 = \$1,300.

The Coast Guard estimates the wage for a qualified assessor at \$75 per hour. Beginning in year 2001, the annual burden placed on the owners and operators is: 19 hours × \$75 = \$1,425.

The total annual burden beginning in 2001 and continuing through 2004 is: \$1,300 + \$1,425 = \$2,725.

#### Federalism

We have analyzed this proposed rule under Executive Order 13132, Federalism.

It is well settled that States are precluded from regulating in categories that are reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306 and 3703(a), 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels) are within the field precluded from State regulation. See the decision of the Supreme Court in the consolidated cases of *United States v. Locke* and *Intertanko v. Locke*, 120 S. Ct. 1135 (1999) 2000 U.S. LEXIS 1895 (March 6, 2000). Thus, this rule falls into the above-mentioned categories, thereby precluding States from regulating. Because States may not promulgate rules within these categories, preemption is not an issue under E.O. 13132.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. While two States operate passenger vessels, entities in the private sector own and operate most of the vessels with mariners that would be affected by this rule. More important, the total burden of Federal mandates that would be imposed by this rule would not exceed \$5 million (during the first 10 years after the effective date of the rule). Therefore, this rule would not impose an unfunded mandate. Though this proposed rule would not result in a \$100,000,000 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have implications for taking under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule would meet applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule would not be an economically significant rule and would not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(c), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule would not result in any significant cumulative impact on the human environment; any substantial controversy or substantial change to existing environmental conditions; any impact, which is more than minimal, on properties protected under 4(f) of the DOT Act, as superseded by Public Law 97–449 and Section 106 of the National Historic Preservation Act; or any inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. A Determination of Categorical Exclusion is available in the docket where indicated under

#### ADDRESSES.

#### List of Subjects

##### 46 CFR Part 10

Incorporation by reference, Marine safety, Seamen, Vessels.

##### 46 CFR Part 12

Incorporation by reference, Marine safety, Seamen, Vessels.

##### 46 CFR Part 15

Incorporation by reference, Marine safety, Navigation (water), Seamen, Vessel manning, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to

amend 46 CFR parts 10, 12, and 15 as follows:

#### PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

2. Revise paragraph (b) of § 10.102 to read as follows:

##### § 10.102 Incorporation by reference.

\* \* \* \* \*

(b) The material incorporated by reference in this part and the sections affected are as follows: International Maritime Organization (IMO)—4 Albert Embankment, London, SE1 7SR, England.

STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and 1997 (STCW Convention, or STCW)—and Seafarers' Training, Certification and Watchkeeping Code (STCW Code): 10.103; 10.205; 10.304; 10.603; 10.901; 10.903; 10.1005; 10.1103.

##### § 10.103 [Amended]

3. In § 10.103, to the definition of "STCW," immediately following the words "as amended in 1995", add the words "and 1997".

4. Add Subpart K, consisting of §§ 10.1101 through 10.1105, to read as follows:

#### Subpart K—Officers on Passenger Ships other than Ro-Ro's

##### § 10.1101 Purpose of rules.

The rules in this subpart establish requirements for officers serving on passenger ships as defined in § 10.1103.

##### § 10.1103 Definitions.

*Passenger ship* in this subpart means a ship, other than a Ro-Ro, which carries more than 12 passengers on an international voyage.

##### § 10.1105 General requirements for license-holders.

If you are licensed as a master, mate, chief mate, engineer, or chief engineer, then, before you can serve on a passenger ship, you must—

(a) Meet the appropriate requirements of STCW Regulation V/3 and of section A–V/3 of the STCW Code; and

(b) Hold documentary evidence to show that you meet these requirements.

**PART 12—CERTIFICATION OF SEAMEN**

5. The authority citation for part 12 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

**§ 12.01–3 [Amended]**

6. Revise § 12.01–3 to read as follows:

**§ 12.01–3 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and must ensure that the material is available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U. S. Coast Guard, Office of Operating and Environmental Standards, room 1210, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

**International Maritime Organization (IMO)**

4 Albert Embankment, London, SE1 7SR, England. STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and 1997 (STCW Convention, or STCW)—and Seafarers' Training, Certification and Watchkeeping Code (STCW Code): 12.01–1; 12.01–6; 12.02–7; 12.02–11; 12.05–3; 12.05–7; 12.05–11; 12.10–3; 12.10–5; 12.10–7; 12.10–9; 12.10–11; 12.15–3; 12.15–7; 12.25–45; 12.30–5; 12.35–5.

**§ 12.01–6 [Amended]**

7. In § 12.01–6, to the definition of "STCW," immediately following the words "as amended in 1995", add the words "and 1997".

8. Add new subpart 12.35, consisting of §§ 12.35–1 through 12.35–5, to read as follows:

**Subpart 12.35—Crewmembers of Ships, Other Than Ro-Ro's, Carrying More Than 12 Passengers on International Voyages**

Sec.

12.35–1 Purpose of rules.

12.35–3 Definition.

12.35–5 General requirements.

**§ 12.35–1 Purpose of rules.**

The rules in this subpart establish requirements for certification of seamen serving on passenger ships as defined in § 12.35–3.

**§ 12.35–3 Definition.**

*Passenger ship* in this subpart means a ship, other than a Ro-Ro, which carries more than 12 passengers on an international voyage.

**§ 12.35–5 General requirements.**

To serve on a passenger ship and perform duties that involve safety or care for passengers, a person holding a merchant mariner's document must—

(a) Meet the appropriate requirements of STCW Regulation V/3 and of section A–V/3 of the STCW Code; and

(b) Hold documentary evidence to show that he or she does meet them.

**PART 15—MANNING REQUIREMENTS**

9. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

10. Redesignate paragraphs (e), (f), and (g) of § 15.1103 as paragraphs (f), (g), and (h), respectively; add a new paragraph (e) to read as follows; and revise newly redesignated paragraphs (g) and (h) to read as follows:

**§ 15.1103 Employment and service within restrictions of license, document, and STCW endorsement.**

\* \* \* \* \*

(e) If you are a crewmember on board a vessel (that is not a Ro-Ro) carrying more than 12 passengers on international voyages, you must hold documentary evidence to show you meet the requirements of § 10.1105 (if licensed) or

**§ 12.35–5 (if unlicensed) of this chapter.**

\* \* \* \* \*

(g) On board a seagoing vessel required to comply with provisions of the GMDSS in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the person designated to maintain GMDSS equipment at sea, when the service of a person so designated is used to meet the maintenance requirements of SOLAS Regulation IV/15, which allows for capability of at-sea electronic maintenance to ensure that radio equipment is available for radio communication, unless the person so serving holds documentary evidence

that he or she is competent to maintain GMDSS equipment at sea.

(h) After January 31, 2002, on board a seagoing vessel fitted with an Automatic Radar Plotting Aid (ARPA), no person may employ or engage any person to serve, and no person may serve, as the master, chief mate, or officer of the navigational watch, unless the person so serving has been trained in the use of ARPA in accordance with § 10.205 or § 10.209 of this chapter, whichever is appropriate.

Dated: June 8, 2000.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

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